

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

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UNITED STATES OF AMERICA

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v.

CRIMINAL NO. 04-CR-30046-MAP

MICHAEL BERGDOLL

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DEFENDANT'S MOTION TO AMEND JUDGMENT

Now comes the defendant in the above captioned matter and requests that this Honorable Court amend the judgment in the above referenced matter by making the following recommendation to the Bureau of Prisons: that he attend and participate in the treatment provided by the Residential Drug and Alcohol Program (RDAP) and that he be confined at the prison camp located at the Allenwood Federal Correctional Complex in White Deer, PA that offers the RDAP.

In support of this request the defendant states as follows:

1. As reflected in the presentence investigation, the defendant has a prior history of substance abuse. Mr. Bergdoll abused cocaine during his twenties.
2. The defendant currently feels that he is dependent on prescription pain killers.

During his interview with probation, he informed the probation officer that he took Percocet for arthritis pain (paragraph 302) but minimized his use of Oxycontin, Percocet, Vicodin and other pain killers because he was afraid that if he admitted the full extent of his use, including the fact that he sometimes obtained these substances from friends, that he would be in more trouble.

3. The defendant informs me that in fact he has used these substances regularly since 1999 and that now that he is facing incarceration where he will not have access to them, he realizes the extent of his dependency on them.
4. As the court is aware, the defendant was initially represented by Attorney Stephen Leary, who passed away shortly before the defendant disposed of his case. Attorney Thomas Butters took over for his friend, Mr. Leary. Mr. Bergdoll indicates that he had informed Mr. Leary of the extent of his use of painkillers and assumed that Mr. Butters was aware. In retrospect, he does not believe that his counsel at the probation interview and sentencing was aware of the extent of his use of pain killers.
5. The defendant is desirous of living a life without dependence on painkillers when he is released from custody and is concerned about living the rest of his life drug free. Upon information and belief, participation in the RDAP would provide the defendant with the necessary tools to live independent of medications upon his release.

THE DEFENDANT

By /s/ David P. Hoose
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